

3rd QUARTERLY PROGRESS REPORT

4th Quarter 2021

PROTECO LANDFILL SITE

Peñuelas, Puerto Rico

Report Date: January 15, 2022

Reporting Period: October 1, 2021 through December 31, 2021

This Quarterly Progress Report was prepared by *de maximis, inc.* for the PROTECO Site (Site) on behalf of the Proteco Landfill Superfund Site Generators Parties Group (Group), pursuant to Paragraph 34(a) of the Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study (Order) and Section XIII, Task 12, of the Statement of Work (SOW) attached to the Order as Appendix C.

QUARTERLY PROGRESS REPORT ELEMENTS

The four (4) Quarterly Progress Report Elements, and their sub-elements, are defined in the SOW, Task 12 and are itemized below:

1. Summary of Settlement Agreement Compliance Actions Performed this Quarter

1.1 Repair of west boundary fence and installation of gate at west access location

In consultation with EPA, the Group successfully completed repair of the west barbed wire fence and installation of a chain-link fence gate at the west access point to the Site in an attempt to limit livestock access to the Site. The west fence repair and west access gate installation was completed on December 20, 2021. A photograph of the new west gate is included in Attachment A.

1.2 East Boundary Fence Plan

During the repair of the west fence, EPA contacted *de maximis* and Geosyntec to request that the Group install a fence on the east boundary in order to enclose the entire Site. The call was held on December 8, 2021. The Group noted that the livestock at the Site present a safety issue which is impeding the Group from clearing the Site. Also, there is a concern that the livestock could damage or destroy any storm water or erosion control Best Management Practices (BMPs) that would be installed prior to the Site clearing activities. The Group asked EPA to contact the owner of the livestock and request that the owner remove the livestock and prevent the livestock from re-entering the Site.

In accordance with EPA's request, the Group prepared a plan to install a barbed wire fence along the eastern boundary. The East Boundary Fence Plan (Plan) was submitted to EPA on December 17, 2021. EPA approved the Plan on December 20, 2021. The Plan allows for certain clearing activities prior to installing the BMPs as would otherwise be required by the Revised Site Clearing Plan (CP) and Interim Storm Water Pollution Prevention Plan (SWPPP). The east boundary fence work is tentatively scheduled to begin on January 17, 2022. If livestock are observed during the fencing work, Geosyntec will contact EPA so that EPA can contact the owner of the cattle and horses and to have them removed from the area. When the fencing work is nearing completion, the Group will inform EPA who will contact the livestock owner to remove any animals inside the Site fence prior to installing the BMPs and clearing the Site.

1.3 Revised Site CP and Interim SWPPP

The Revised Site CP and SWPPP were submitted to EPA on September 24, 2021. EPA approved the Revised Site CP and SWPPP on October 4, 2021.

On November 30, 2021 the Group submitted a request to EPA for permission to reduce the total acreage to be cleared and surveyed at the Site from fifty-one (51) acres as stated in the Revised Site CP to forty-one (41) acres. The historical Site boundary shown in the Hazard Ranking System (HRS) report encompassed approximately 41 acres. The Revised Site CP included cutting the vegetation in areas outside the HRS boundary and totaled approximately 51 acres.

On December 10, 2021, EPA denied the request to reduce the Site clearing acreage.

1.4 Endangered Species Site Survey

Geosyntec participated in an informal consultation process with the United States Fish and Wildlife Service (FWS) regarding endangered species as part of the Site clearing approval process. On October 15, 2021 the FWS informed Geosyntec that the Group would need to perform a biological survey of the Site for the purpose of documenting if endangered species might be present at the Site.

On October 28, 2021 a conference call was held with de maximis, Geosyntec and EPA to discuss the planned biological survey. EPA was informed by Geosyntec that the survey would be conducted on November 3 and 4, 2021. EPA was informed during the call that Geosyntec would need to prepare a letter of determination that included the biological survey that would be submitted to FWS. EPA was also informed by Geosyntec that FWS must issue a "Concurrence of Findings" letter before the Site clearing activities could begin.

Geosyntec submitted a letter of determination to FWS on November 15, 2021 and submitted a revised letter of determination on December 2, 2021. Geosyntec received the FWS letter of concurrence on December 8, 2021 and a revised letter of concurrence on January 3, 2022. A copy of revised FWS letter of concurrence is enclosed in Attachment B.

1.5 Extension of Project Schedule by EPA

On November 3, 2021 the Group submitted a request for an extension to the Site Reconnaissance Visit deadline of December 30, 2021. This request was based on an October 28, 2021 teleconference call with EPA, de maximis and Geosyntec where it was discussed that mobilizing to the Site for vegetation clearing would be delayed due to the FWS requirement that the Group perform a biological survey, prepare a letter of determination and receive a letter of concurrence from FWS prior to beginning any Site clearing activities. Due to the delays associated with performing the biological survey, preparing the letter of determination, revising the letter of determination and receiving the revised FWS letter of concurrence the Group would not be able to meet the Site Reconnaissance deadline of December 30, 2021.

In an email on November 9, 2021, EPA stated that a discussion regarding an extension of time for the Site Reconnaissance Visit would be delayed until Site clearing has begun.

1.6 Access Agreement

The Group entered into an Amendment to Site Access Agreement with the landowner of the Site, effective December 21, 2021.

2. Summary of sampling and tests performed at the Site by the Respondents this Quarter

No media sampling or laboratory testing was performed by the Group during this quarter.

3. Summary of Work and Schedule Planned for Next Quarter (January through March 2022)

3.1 Work Planned

3.1.1 The Group plans on installing a barbed wire fence along the east Site boundary beginning on or about January 17, 2022. This work is estimated to require three (3) weeks to complete.

- 3.1.2 The Group plans to install the Site storm water and erosion control BMPs as described in the Revised Site CP and Interim SWPPP. This work would begin after the Group informs EPA that the east boundary fence is completed and EPA confirms that the livestock owner has removed all the cattle and horses from the Site.
- 3.1.3 Site vegetation clearing work would begin as soon as possible after the installation of the BMPs and will be conducted in accordance with the requirements of the FWS as set forth in the enclosed revised FWS concurrence letter.
- 3.1.4 The Group will mobilize a biologist or qualified scientist, as needed, during the Site vegetation clearing work to survey for the presence of the Puerto Rican Nightjar in areas designated to be cleared. The biologist will also note if the Puerto Rican Boa is observed at the Site during their surveys.
- 3.1.5 The Group plans to mobilize a surveyor once sufficient clearing of Site vegetation has been performed to allow the surveyor to locate the waste disposal units. The surveyor will also establish a Site boundary based upon existing information and Site plans once sufficient vegetation has been cleared.
- 3.1.6 The Group intends to determine the date for the Site Reconnaissance Visit with EPA once the vegetation clearing has begun and at a time when the Site has been sufficiently cleared of vegetation to allow the surveyor to establish the Site boundaries and the locations of the former waste disposal units.

3.2 Schedule for Planned Work

A simplified Gantt chart schedule is provided with this report as Attachment C.

3.3 Impact of Planned Work on RI/FS Completion Schedule

The repair of the west boundary fence and the planned installation of the east boundary fence has further delayed the Site vegetation clearing, the former waste disposal unit survey, and the Site boundary survey. All these tasks must be completed prior to scheduling the Site Reconnaissance Visit with EPA. The date of the Site Reconnaissance Visit is the first major milestone in the RI/FS process with all subsequent activities, meetings and deliverables measured from that date in the schedule.

4. Summary of Problems, Delays and Solutions

4.1 Problems Encountered During this Quarter

4.1.1 FWS biological survey for endangered species

The Group was notified by FWS on October 15, 2021 that a biological survey of the Site was required prior to performing any Site clearing activities. The FWS notification was received after EPA had approved the Site CP & SWPPP on October 4, 2021. The biological survey was performed on November 3 and 4, 2021. As noted in Section 1.4 of this report, Geosyntec submitted a letter of determination to FWS on November 15, 2021 and submitted a revised letter of determination on December 2, 2021. FWS issued the letter of concurrence to Geosyntec on December 8, 2021 and the Group received the enclosed FWS revised concurrence letter on January 3, 2022. The biological survey resulted in delaying the project schedule by approximately two (2) months.

4.1.2 Off-Site sedimentation ponds and bypass canal

In a September 27, 2021 email to EPA, the Group requested that EPA verify whether the Upper and Lower Sedimentation Ponds are a component of EC Wastes' current NPDES permit. Based on follow-up communication with EPA, we understood that the issue was referred to the EPA NPDES section. As of September 30, 2021, the Group has not received any information from the EPA NPDES section about this important issue. In a separate effort to learn about EC Wastes' stormwater management, the Group submitted a FOIA request to EPA on November 2, 2021 for copies of EC Waste's NPDES permit, EPA inspections, engineering plans and reports. As of December 30, 2021, the Group had received a few EC Waste files from EPA in response to the FOIA request. EPA will continue to search for EC Waste documents and anticipates completion of the FOIA request by April 2022. The Group will likely need EPA support and guidance on how to deal with the operators of neighboring facilities whose operations may be impacting the Site or runoff from the Site.

4.1.3 On-site trespassing of cattle and horses

The presence of a trespasser with his cattle and horses at the Site remains an issue and has already caused the project schedule to be delayed. As described above, the Group has completed repair of the west boundary fence, installed a chain link gate, and will install an east boundary fence in an attempt to restrict livestock from entering the Site. EPA will coordinate with the livestock owner to remove animals from the Site. As reported in the 1st Quarterly Progress Report, the attorney for the landowner verbally confirmed to the Group that there is no lease or grazing rights agreement between the landowner and the trespasser. The presence of livestock at the Site presents an ongoing

worker safety issue and a potential damage concern for the planned BMP installations. The time required to remove the livestock from the Site may result in further delays in the Site vegetation clearing and surveying tasks. Once EPA verifies to the Group that the livestock have been removed, the Group will install BMPs and begin the Site vegetation clearing and survey work.

4.1.4 Lack of existing site boundary survey data

As reported in the 2nd Quarterly Progress Report, the surveyor determined that no public land records, or private lease records exist which contain any survey data or specific location information regarding the Site boundaries. The surveyor also could not find any public records with the legal boundaries for the two (2) landfill operations which are adjacent to the Site, namely the EC Waste landfill and the Ecosystems landfill. The landowner's attorney did not have any records that describe the Site boundaries. As a solution, the Site boundaries will be established through surveying the existing barbed wire fence on the south, west, and north boundaries and by surveying a new proposed barbed wire fence on the east boundary along the approximate extent of the former Proteco operation areas.

4.2 Anticipated or Potential Problems Next Quarter

None of the Landfills in the valley (Proteco, EC Waste, or Ecosystems) have surveyed and/or recorded legal boundaries. Establishing the Site boundaries based upon existing and new Site fencing is a critical matter to the Group.

4.3 Schedule Delays Encountered This Quarter

The Group received notice from FWS on October 15, 2021 that a biological survey was required for the Site, which has delayed the project by two (2) months. Additionally, inspecting the west boundary fence, repairing the west boundary fence, installing the west side access gate, preparing the east fence Plan, receiving EPA approval of the Plan, securing the services of the fencing company, obtaining the materials to install east fence and dealing with the livestock issue has delayed the project by approximately two (2) months. The biological survey work, the livestock issue and the east fence work has delayed the project by approximately four (4) months.

4.4 Anticipated or Potential Schedule Delays Next Quarter

The east boundary fence work is tentatively scheduled to begin on January 17, 2022. Delays to the Site clearing and survey work may occur depending on the local availability of required materials for the new east boundary fence and the BMPs. The Group may be precluded from

clearing certain areas if Puerto Rican Boas and/or Puerto Rican Nightjars, nests, or eggs are observed. If not locally available, supply-chain and other materials issues and schedules to Puerto Rico may negatively impact the project schedule. The weather might also impact the project schedule. The Group will periodically coordinate with and provide schedule updates to EPA via email during the mobilization and east fence installation period. Public health issues (e.g., the Covid 19 pandemic) might also cause delays to the project schedule.

4.5 Solutions Implemented to Address Actual Problems or Schedule Delays This Quarter

The Group requested and was granted an extension to the project schedule from EPA based on the need for the biological survey and the progress of the Site fencing repair and installation, vegetation clearing, and surveying activities. EPA will be consulted to schedule the Site Reconnaissance Visit after Site clearing has begun and when the Site has been sufficiently cleared of vegetation and the surveyor has established the Site boundaries and the locations of the former waste disposal units.

4.6 Solutions Planned to Address Anticipated Problems or Schedule Delays Next Quarter

Should adverse weather conditions and/or public health issues (e.g., the Covid 19 pandemic) negatively impact the project schedule, the Group will consult with EPA to request an extension to the project schedule to allow for sufficient time to complete the Site fencing, vegetation clearing, and survey work.

Attachment A

Photographs of New West Side Gate



New Chain Link Fence Gate at West Side Access



View of West Side Access Prior to New West Side Gate Installation

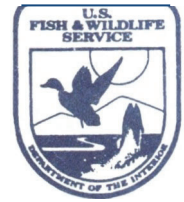
Attachment B

Revised FWS Letter of Concurrence



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Caribbean Ecological Services Field Office
PO Box 491
Boquerón, PR 00622



In Reply Refer To:
FWS/R4/CESFO/72111-001

Mr. Jaime Feliciano
Geosyntec
12802 Tampa Oaks Blvd., Suite 151
Temple Terrace, FL 33647

Re: PROTECO Site,
Peñuelas, Puerto Rico

Dear Mr. Feliciano:

This is to follow up the December 14, 2021, telephone conversation and December 20, 2021, email providing additional information for the proposed investigations to be carried out at the PROTECO industrial landfill in Peñuelas, Puerto Rico. Our comments are issued in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq. as amended).

The site is under an October 2020 Administrative Order of Consent with the U.S. Environmental Protection Agency (“EPA”) to perform a Remedial Investigation/Feasibility Study at the Site. A site clearing plan was approved by the EPA on October 4, 2021. Previously the scope of work for the proposed construction activity includes clearing the approximately 41 acres of scrub/shrub vegetation with minimal ground disturbance. However, the land clearing has been increased to 51 acres to encompass the entire site footprint. The purpose of this project is to allow surveying of the former waste disposal units and site boundary to facilitate a site reconnaissance.

Site vegetation clearance consists of removal of brush and small trees measuring less than four (4) inches in diameter but does not include the removal of tree stumps and root mass (i.e., “grubbing” activities). During clearing, the contractor will set the cutting tools a minimum of six (6) inches from the ground surface to avoid impacting the root system or the existing soil cover. Additionally, the clearing plan indicates that areas with steep, natural, or engineered slopes at the site will not be cleared of vegetation.

A preliminary assessment from the U.S. Fish and Wildlife Service (Service) Information for Planning and Consultation (IPaC) website indicates there may be the following six (6) ESA-listed species potentially affected by the site clearing activities within the project area:

Guabairo - Puerto Rican Nightjar
Puerto Rican Boa
Bariaco

Caprimulgus noctitherus
Epicrates inornatus now known as *Chilabothrus inornatus*
Trichilia triacantha

Eugenia woodburyana
Diablito Tres Cuernos
Varronia rupicola

Buxus vahlii

A survey of the proposed clearing areas was conducted on November 3-4, 2021 under the supervision of Geosyntec personnel. The Puerto Rican Nightjar or Guabairo (*Caprimulgus noctitherus*) was the only ESA-listed species observed at the site in one of the two nocturnal walks. Over approximately ten individuals of the Guabairo were recorded across the entire property. The Puerto Rican boa or listed plants were not identified in any of the site surveys. There are also free ranging cattle on the site which may act as a deterrence for the Puerto Rican Nightjar to use the site for nesting.

Based on the results of the biological survey, Geosyntec is proposing to follow Service's conservation measures for the Guabairo that include:

1. All project personnel will be briefed about the potential presence of the Puerto Rican Nightjar prior to performing any the clearing activities.
2. The proposed clearing work should be conducted in areas that were surveyed and no later than January 31, 2022 when the nesting season of the Puerto Rican Nightjar begins.
3. If any listed species are sighted, all work in the area should stop and vegetation clearing should be modified to protect the area in which the sighting was made.
4. Additional conservation measures include a 20-meter buffer in the event a Puerto Rican Nightjar is found inside the vegetation clearance area either in courtship or early nesting. No vegetation clearance can take place in that area until nesting or courtship activities cease.
5. Notification of both the Service and DNER in the event a dead or injured Puerto Rican Nightjar is found.
6. For any construction, work that will occur after February 1, 2022, a qualified scientist will survey the areas to be impacted before initiating work. If Puerto Rican Nightjars are found displaying courtship behavior or nesting, the clearing contractor will be instructed to not disturb the birds and move away from the area. A 20-meter exclusion zone around the sighting area should be clearly established and enclosed with a no trespassing tape or similar high visibility markings. The contractor shall not begin any type of work in that area until further searches are conducted by a qualified biologist to verify there is no nesting or brooding activity. The qualified biologist shall also consider that any Puerto Rican Nightjar displaying distraction behavior is consistent with the presence of an active nest or nestlings. Such an observation shall be tagged as a nesting site as well, even though a nest may not be observed as present.
7. No heavy equipment (e.g., bulldozers or cutters) shall be allowed at or near the established 20-meter exclusion zone. This type of machinery shall not be used in this area

until the Puerto Rican Nightjar chicks leave the nesting site on their own, as verified by qualified biologist. Relocation of individuals or their nest is not authorized.

It is Geosyntec's determination, that with the above conservation and minimization measures, the EPA-approved Clearing Plan may affect, but is not likely to have an adverse effect the Guabairo. We have reviewed the information provided in your letter and our files and concur with your determination that the proposed action may affect, but is not likely to adversely affect, the above referenced species. No adverse impacts to designated critical habitat are anticipated.

In view of this, we believe that requirements of section 7 of the Endangered Species Act (Act) have been satisfied. However, obligations under section 7 of the Act must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner that was not previously considered; (2) this action is subsequently modified in a manner not previously considered in this assessment; or, (3) a new species is listed or critical habitat determined that may be affected by the identified action.

Thank you for the opportunity to comment on his action, if you have any questions please contact Felix Lopez of my staff at (787) 510-5208.

Sincerely yours,

**EDWIN
MUNIZ**

Edwin E. Muñiz
Field Supervisor

Digitally signed by EDWIN
MUNIZ
Date: 2022.01.03 14:18:04
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cc:

DNER, San Juan

EPA, San Juan

Attachment C

Gantt Chart Schedule

DRAFT FOR PLANNING PURPOSES

ID	Task Name	Duration	1, 2021					Half 2, 2021				Half 1, 2022				Half 2, 2022				Half 1, 2023				Half 2, 2023				Half 1, 2024				Half 2, 2024				Half 1, 2025				Half 2, 2025				Half 1, 2026				Half 2, 2026				Half 1, 2027				Half 2, 2027				Half 1, 2028				Half 2, 2028				Half 1, 2029			
			M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M	J	S	N	J	M	M																			
1	PROJECT DURATION	2682 days																																																																					
2	Task 1: RI/FS Scoping and Planning	90 days																																																																					
3	Site Reconnaissance (currently extended to 04/25/2022)	0 days																																																																					
4	RI/FS Scoping and Planning Technical Memo (w/in 60 calendar days of Site Reconnaissance)	60 days																																																																					
5	Submit RI/FS SPTM	0 days																																																																					
6	Technical Meeting 1 - RI/FS Work Plan Pre-Submittal (w/in 30 calendar days after submitting SPTM)	0 days																																																																					
7	Task 2: RI/FS Work Plan: Field Sampling Plan, QAPP, H&S Plan and Cultural Resources Survey	210 days																																																																					
17	Task 4: Site Characterization	262 days																																																																					
29	Task 5: RI/FS Work Plan Addendum*	271 days																																																																					
43	Task 6: Implementation of the RI/FS Work Plan Addendum*	150 days																																																																					
56	Task 7: Identification of Candidates Technologies	90 days																																																																					
61	Task 8: Treatability Studies	444 days																																																																					
83	Task 9: Baseline Risk Assessment	874 days																																																																					
157	Task 10: Remedial Investigation Report	195 days																																																																					
168	Task 11: Feasibility Study: Development And Screening of Remedial Alternatives	90 days																																																																					
171	Task 12: Quarterly Progress Report & Meetings	2375 days																																																																					
207	Task 13: Feasibility Study Report	165 days																																																																					

**PROTECO TENTATIVE PROJECT SCHEDULE
(DRAFT) JANUARY 2022**

*To be requested by EPA if necessary.

Symbol	Description
[Blue Bar]	Task
[Dotted Blue Bar]	Split
[Red Diamond]	Milestone
[Grey Bar]	Summary
[Light Grey Bar]	Inactive Task
[White Bar]	Inactive Milestone
[Light Grey Bar]	Inactive Summary
[Teal Bar]	Manual Task
[Teal Bar with Dots]	Duration-only
[Teal Bar with Dots]	Manual Summary Rollup
[Dark Grey Bar]	Manual Summary
[Teal Bar]	Start-only
[Teal Bar]	Finish-only
[Teal Bar]	External Tasks
[Grey Bar]	External Milestone
[Green Arrow Down]	Deadline
[Blue Bar]	Progress
[Teal Bar]	Manual Progress